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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JENS ERIK SORENSEN, As Trustee of SORENSEN RESEARCH AND DEVELOPMENT TRUST, Plaintiff, v. RYOBI TECHNOLOGIES, INC., a Delaware corporation; TECHTRONIC INDUSTRIES NORTH AMERICA, INC., a Delaware corporation; and DOES 1-100 Defendants.	CASE NO. 3:08-cv-00070-BTM-CAB **RYOBI TECHNOLOGIES, INC.'S AND TECHTRONIC INDUSTRIES NORTH AMERICA INC.'S RESPONSE TO COMPLAINT FOR PATENT INFRINGEMENT AND AFFIRMATIVE DEFENSES** [Hon. Barry Ted Moskowitz] **JURY TRIAL DEMANDED**

ANSWER TO COMPLAINT

Defendants, Ryobi Technologies, Inc. ("RTI") and Techtronic Industries North America Inc. ("TTINA") answer the allegations of plaintiff, Jens Erik Sorensen, as trustee of Sorensen Research and Development Trust ("SRDT"), and assert affirmative defenses and counterclaims as set forth below, solely on their own behalf. RTI and TTINA are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in SRDT's Complaint with respect to the defendants referred to as DOES 1-100, and therefore deny the allegations with respect to them. To the extent that any response to the conclusory headings used in the complaint may be deemed required, RTI and TTINA deny any allegations set forth in those headings. RTI and TTINA deny any allegation not deemed to be addressed below, if any, to the extent that the allegation is deemed to require a response.

THE PARTIES

1. RTI and TTINA are without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore deny the allegations except that RTI and TTINA admit that with the exception of the numbering, Exhibit A appears to be a true and correct copy of U.S. Patent No. 4,935,184 ("the '184 patent").

2. Admitted.

3. Admitted.

4. RTI and TTINA are without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore deny the allegations.

5. Denied.

6. Denied.

JURISDICTION AND VENUE

7. Admitted that this action purports to be for alleged patent infringement.

8. Denied.

9. Denied.

GENERAL ALLEGATIONS

10. Admitted.

11. Denied.

12. Denied.

13. Denied.

14. TTINA admits that it received a letter on September 16, 2004 from an attorney purporting to represent "Sorensen Research & Development Trust" that that identified the '184 patent but denies the remainder of the allegations. RTI denies the allegations.

15. Denied.

16. Denied.

17. RTI and TTINA admit that no license has been obtained because no license is needed. Denied as to the remainder of the allegations.

CLAIM 1- PATENT INFRINGEMENT AS TO RYOBI PRODUCTS

18. RTI and TTINA reallege and incorporate herein by reference paragraphs 1 through 17, inclusive, as though fully set forth herein.

19. Denied.

20. RTI and TTINA admit that Plaintiff has identified several RYOBI-branded products, but denies the remainder of the allegations.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

25. Admitted that all manufacturing of the products identified in paragraph 20 of the Complaint occurs in China. Denied as to the remainder of the allegations.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

30. Denied.

31. Denied.

32. Denied.

CLAIM 2 – PATENT INFRINGEMENT WITH RESPECT TO CRAFTSMAN PRODUCTS

33. RTI and TTINA reallege and incorporate herein by reference paragraphs 1 through 17, inclusive, as though fully set forth herein.

34. Denied.

35. RTI and TTINA admit that Plaintiff has identified several CRAFTSMAN-branded products, but deny the remainder of the allegations..

36. RTI and TTINA admit that Plaintiff has identified several CRAFTSMAN-branded products, but deny the remainder of the allegations.

37. Denied.

38. Denied.

39. Denied.

40. Denied.

41. Denied.

42. Admitted that all manufacturing of the products identified in paragraphs 35 and 36 of the Complaint occurs in China. Denied as to the remainder of the allegations.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

48. Denied.

49. Denied.

AFFIRMATIVE DEFENSES

1. RTI and TTINA have not and do not infringe, directly or indirectly, or actively induce others to infringe, or contribute to the infringement by others because RTI and TTINA do not make, use, sell, offer to sell or import any product manufactured by a process covered by any valid and enforceable

claim of the '184 patent and do not practice any process covered by any valid and enforceable claim of the '184 patent.

2. The claims of the '184 patent are invalid and/or unenforceable for failing to meet one or more of the statutory requirements of 35 U.S.C. § 101 *et seq.*, including but not limited to 35 U.S.C. §§ 102, 103 and/or 112.

3. SRDT's claim for damages (to the extent SRDT is entitled to any damages) is limited because SRDT failed to provide notice as required by 35 U.S.C. § 287(b).

4. SRDT's claim for damages (to the extent SRDT is entitled to any damages) is limited by the statute of limitations as set forth in 35 U.S.C. § 286.

5. SRDT's claim for damages (to the extent SRDT is entitled to any damages) is barred in whole or in part by the equitable doctrine of laches.

6. SRDT's claim for damages (to the extent SRDT is entitled to any damages) is barred in whole or in part by the equitable doctrine of equitable estoppel.

7. SRDT's claim for damages (to the extent SRDT is entitled to any damages) is barred in whole or in part by the doctrine of prosecution history estoppel.

RESPONSE TO SRDT'S PRAYER FOR RELIEF

The allegations in the paragraph requesting relief are in the nature of a prayer. Although no answer is required, RTI and TTINA respond to the individual requests for relief as follows:

a. RTI and TTINA deny that a judgment ordering that the Accused Processes are presumed to infringe the '184 patent pursuant to 35 U.S.C. § 295 should be entered, and deny any and all liability of Plaintiff's claims;

b. RTI and TTINA deny that a judgment stating that they act together as a single enterprise for purposes of designing, manufacturing, marketing, importing, offering for sale, and or/selling the Accused Ridgid Products should be entered;

c. RTI and TTINA deny that a judgment stating that they act together as a single enterprise for purposes of designing, manufacturing, marketing, importing, offering for sale, and or/selling the Accused Craftsman Products should be entered;

d. RTI and TTINA deny that a judgment adjudicating and decreeing the Defendants to have infringed the '184 patent should be entered, and deny any and all liability of Plaintiff's claims;

e. RTI and TTINA deny that a judgment adjudicating and decreeing the Defendants to have contributed to the infringement of the '184 patent should be entered, and deny any and all liability of Plaintiff's claims;

f. RTI and TTINA deny that a judgment stating that Defendants, their parents, subsidiaries, divisions, affiliates, officers, agencies and attorneys, and those acting in privity or concert with RTI and TTINA, are enjoined from further infringement of the '184 patent, and from further contribution to or inducement of the infringement of the '184 patent should be entered, and deny any and all liability of Plaintiff's claims;

g. RTI and TTINA deny that a judgment ordering the Defendants to account for damages adequate to compensate Plaintiff for the infringement of the '184 patent should be entered, and deny any and all liability of Plaintiff's claims;

h. RTI and TTINA deny that a judgment ordering that such damages as are awarded, to the extent Plaintiff is entitled to any such damages, are trebled pursuant to 35 U.S.C. § 284 by reason of the willful, wanton, and deliberate nature of the infringement should be entered, and deny any and all liability of Plaintiff's claims;

i. RTI and TTINA deny that a judgment decreeing this case to be an "exceptional case" and awarding SRDT reasonable attorneys' fees pursuant to 35 U.S.C. § 285 should be entered, and deny any and all liability of Plaintiff's claims;

j. RTI and TTINA deny that a judgment awarding interest on such damages, to the extent Plaintiff is entitled to any such damages, should be entered, and deny any and all liability of Plaintiff's claims;

k. RTI and TTINA deny that a judgment awarding costs of suit herein incurred by Plaintiff should be entered, and deny any and all liability of Plaintiff's claims; and

l. RTI and TTINA deny that a judgment should be entered for such other and further relief in favor of the Plaintiff, and deny any and all liability of Plaintiff's claims.

PRAYER FOR RELIEF

WHEREFORE, RTI and TTINA request the following relief:

a. Dismissal of Plaintiff's Complaint, with prejudice;

b. A judgment that RTI and TTINA have not infringed, induced infringement or contributed to the infringement of any valid claim of the '184 patent;

c. A judgment that the claims of the '184 patent are invalid;

d. Judgment in favor of RTI and TTINA on all of the Plaintiff's claims;

e. A judgment that this is an exceptional case under 35 U.S.C. § 285 and for an award to RTI and TTINA for their attorneys' fees and expenses in this action; and

f. For such relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to FED. R. CIV. P. 38(b), RTI and TTINA hereby demand a trial by jury of all issues so triable in this action.

Date: March 5, 2008

MORRIS POLICH & PURDY, LLP

By: s/Angela Kim

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RYOBI TECHNOLOGIES, INC. AND TECHTRONIC INDUSTRIES NORTH AMERICA, INC.

CERTIFICATE OF SERVICE

I am employed in San Diego County. I am over the age of 18 and not a party to this action. My business address is 501 West Broadway, Suite 500, San Diego, California 92101-3544.

On March 5, 2008, I served a copy of the foregoing document(s) entitled: RYOBI TECHNOLOGIES, INC.'S AND TECHTRONIC INDUSTRIES NORTH AMERICA INC.'S RESPONSE TO COMPLAINT FOR PATENT INFRINGEMENT AND AFFIRMATIVE DEFENSES to all parties in this action.

SEE SERVICE LIST

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☒ **ELECTRONIC FILING**

☒ **FEDERAL** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on March 5, 2008, at San Diego, California.

NANCY DAVIS